

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Chico Drain Oil, LLC
1618 West 5th Street
Chico, California 95928

ID No. CAD 980 694 103

Respondent.

Docket HWCA 2007 1317

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Chico Drain Oil, LLC (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles and/or stores hazardous waste at the following site: 1618 West 5th Street, Chico, California 95928 (Site). Respondent also transports hazardous waste.

1.3. Inspection. The Department inspected the Respondent on August 23 and 31, and September 1 of 2006.

1.4. Permit Status. The Department authorized Respondent manage hazardous waste by Standardized Hazardous Waste Facility Permit, issued in December 1997, and modified in December 2003, to change the facility name and operator and add Limited Liability Corporation to the facility name and the operator (Permit), and Hazardous Waste Transporter Registration # 812, issued on February 28, 2007.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the

Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code section 25202, subdivision (a), California Code of Regulation, title 22, section 66270.30 and the Permit, Part II, Special Condition 3, in that on several occasions in 2005 and 2006, Respondent accepted and stored drums of used oil, a hazardous waste, at a location in the facility not authorized for storage by the Permit.

2.1.2. Respondent violated Health and Safety Code section 25201, subdivision (a), in that on several occasions in 2005 and 2006, Respondent (as a hauler of hazardous waste) stored hazardous waste in excess of the ten days allowed under transfer facility exemption without a permit or other grant of authorization from the Department.

2.1.3. Respondent violated California Code of Regulation, title 22, section 66263.16, subsection (b) in that on or about September 1, 2006, Respondent used containers (55-gallon drums) for shipping hazardous waste that allowed release of hazardous waste to the environment.

2.1.4. Respondent violated California Code of Regulation, title 22, section 66264.73, subsection (b)(2) in that on or about September 1, 2006, Respondent failed to accurately record in its operating log the quantity of hazardous waste stored at its storage tanks. Specifically, the volume recorded in its operating log for the loads of hazardous waste received at the facility did not match the total volume of the hazardous waste reported in a particular manifest.

2.1.4. Respondent violated California Code of Regulation, title 22, section 67800.5 and section 66264.143, subsection (i)(1) in that on or about April 10, 2007, Respondent failed to maintain the amount of the CD at least equal to the current closure cost estimate. The CD was deficient in the amount of \$7,622 on May 5, 2006.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent has corrected the violations cited above. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

3.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a

satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order.

Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department a total sum of \$14,000.00 as penalty.

5.2. The payments shall be paid in four (4) quarterly installments of \$3,000.00 and one installment of \$2,000.00. The four (4) quarterly installments of \$3,000.00 each are due and payable on October 1, 2007, January 1, 2008, April 1, 2008, and July 1,

2008. The installment in the amount of \$2,000.00 is due and payable on October 1, 2008. Any installment payment which is received by the Department after the 15th day of the payment month in which it is due subject to penalty in amount of \$750.00, which penalty shall be paid by Respondent no later than the due date of next installment payment. If Respondent fails to make a full installment payment within thirty (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalties immediately due and owing. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to H&SC, Section 25360.1. Respondent further agrees to pay all costs and attorney's fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent hereunder. Respondent's checks shall be made payable to Department of Toxic Substances Control and shall be delivered.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and together with a payment Voucher in the form set forth in Exhibit 1 attached hereto and incorporated herein by reference, shall be delivered to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

And

James Grace, Esq.
Office of Legal Counsel
Department of Toxic Substances Control

8000 Cal Center Drive
Sacramento, California 95826

A photocopy of the check(s) shall be sent to:

Robert Kou, Unit Chief
Enforcement and Emergency Response Program
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 8/31/07

Original signed by Michael Chiotti
Respondent Signature

Michael Chiotti
Print Name of Respondent

Dated: 9/5/07

Original signed by Robert Kou
Robert Kou, Unit Chief
Glendale Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control